

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY (NEWARK)**

CHARLES T. MCNAIR,
THEODORE AUSTIN,
DANIELLE DEMETRIOU,
USHMA DESAI and JULIE DYNKO
on behalf of themselves and all others similarly
situated,

Plaintiffs

v.

SYNAPSE GROUP INC.,

Defendant.

**NOTICE OF MOTION FOR CERTIFICATION OF ACTION
AS CLASS ACTION PURSUANT TO FED.R.CIV.PROC. 23(B)(2)**

PLEASE TAKE NOTICE that Charles T. McNair, Theodore Austin, Danielle Demetriou, Ushma Desai and Julie Dynko (hereinafter “Plaintiffs” or “proposed Class Representatives”), individually and on behalf of all others similarly situated, by and through their attorneys, shall move, pursuant to the schedule set forth in the Honorable Claire C. Cecchi’s May 13, 2010 Order, before the Honorable Jose L. Linares at the United States Court House, Martin Luther King Jr. Federal Building, Newark, New Jersey, for an Order:

- (i) Certifying, under F.R.C.P. 23(b)(2), a New Jersey, a New York and a District of Columbia class of persons, the law of each jurisdiction applying to respective class members, which is defined as:

All persons residing in New Jersey from October 23, 2000 to the date of the order certifying the class, and all persons residing in New York and District of Columbia from October 23, 2003 to the date of the order certifying the class, who as customers of Synapse were mailed a postcard advance notification of an automatic charge for an additional term or renewal of their magazine subscription(s) that failed to state that he or she is an Automatic Renewal Customer or is subject to an automatic charge, in type larger and more prominent than the predominant type in the notice. Excluded from the class are defendant, its agents and affiliates, and any government entities. (the "Class");

- (ii) Certifying, under F.R.C.P. 23(b)(2), a First Subclass, which is defined as:

All members of the Class who were sent Defendant's standard exterior double postcard as the advance notification of an automatic charge for an additional term or renewal of their subscription(s);

- (iii) Certifying, under F.R.C.P. 23(b)(2), a Second Subclass, which is defined as:

Members of the Class for whom the postcard and/or billing descriptor on their credit card or bank statement provided a telephone number to an IVR that did not audibly state how to transfer to a live operator;

- (iv) for appointment of the Proposed Class Representatives as Class Representatives;
- (v) for appointment of Kantrowitz Goldhamer & Graifman, Green & Pagano, LLP, and Diamond Law Office, LLC as Counsel for the Class; and
- (vi) for such other and further relief as to the Court appears just and proper.

The motion is based upon this Notice, the Memorandum of Law in Support thereof filed concurrently herewith, the Declaration of Michael S. Green and its annexed exhibits, the pleadings and records on file in this action and such additional argument and/or documentary evidence as may be presented concerning this motion.

DATED: June 18, 2010

s/Michael S. Green

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